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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/747,681	12/30/2003	Naoto Teshima	TESH3001/FJD	3173
23364	7590	08/25/2005	EXAMINER	
BACON & THOMAS, PLLC 625 SLATERS LANE FOURTH FLOOR ALEXANDRIA, VA 22314				WHITTINGTON, KENNETH
		ART UNIT		PAPER NUMBER
		2862		
DATE MAILED: 08/25/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

(R)

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/747,681	TESHIMA ET AL.
	Examiner Kenneth J. Whittington	Art Unit 2862

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 28 July 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-16 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 30 December 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.



Bot Ledyrh  
Primary Examiner

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)              |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____.  |

**DETAILED ACTION*****Specification***

Applicant is reminded of the proper content of an abstract of the disclosure.

6 A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

24 The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;  
(2) if an article, its method of making;  
30 (3) if a chemical compound, its identity and use;  
(4) if a mixture, its ingredients;  
(5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

36 The abstract of the disclosure is objected to because it refers to the purported merits of the invention in lines 2 and 3, i.e., "remarkably improved" capabilities and durability. Correction is required. See MPEP § 608.01(b).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

6       A person shall be entitled to a patent unless -  
12      (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

18       Claims 1, 2, 4, 5, 6, 8, 10, 11, 12 and 15 are rejected  
under 35 U.S.C. 102(e) as being anticipated by Nicot (US  
6,593,733). Regarding claims 1, 2, 4, 6, 8, 10, 11, 12 and 15,  
Nicot discloses a magnetic encoder for a motion sensor mounted  
on a bearing unit comprising:

24       a reinforcing ring and a multi-pole magnet for detecting  
the rotation speed thereof, the magnet attached to the outside  
surface of the reinforcing ring (See Nicot FIGS. 1 and 6,  
magnetic encoder 6 with support bracket enforcing ring), and  
a peelable protective cover having a film-shape attached to  
a surface of the magnet (See FIGS. 2-6, item 15 or 25 and col.  
3, lines 1-45), the cover provided with a handle (See FIGS. 5  
30 and 6, item 18), wherein the protective cover is adapted to be

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removed from the surface of the magnet after assembly of the bearing unit (See col. 3, lines 12-45), and

wherein the encoder is combined with a seal member having seal lips, mounted on the bearing unit (See FIG. 1, note seal assembly 4 combined with encoder 6 to form a bearing seal).

6       Regarding claim 5, as is best understood, it is noted that the protective cover of Nicot would necessarily have some color depending on its particular material make-up. Accordingly, the protective cover of Nicot is colored.

***Claim Rejections - 35 USC § 103***

12       The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

18       (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

24       The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

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2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6 Claims 3, 7, 9, 13, 14 and 16 rejected under 35 U.S.C.

103(a) as being unpatentable over Nicot in view of Liatard et al. (US 6,232,772). Regarding these claims, Nicot teaches the features of claims 1, 2 and 6 as discussed above and further discloses the features of claims 9, 14 and 16 as discussed above with respect to claims 2 and 11. Furthermore, Nicot teaches the protective element being made of a support charged with ferromagnetic particles (See Nicot col. 2, lines 36-49). However, Nicot does not teach the support being a rubber. Liatard et al. teaches protective members being made of rubber (See Liatard et al. col. 1, lines 11-25). It would have been obvious at the time the invention was made to use rubber for the support in Nicot such that the protective element is rubber charged with ferromagnetic particles, or magnetic rubber. One having ordinary skill in the art would have been motivated to do so because Nicot does not require any specific material for its support in the protective element and Liatard et al. notes that it is conventional in the art to use rubber as a protective

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element for a magnetic encoder (See Liatard et al. same paragraph).

**Prior Art**

The prior art made of record and not relied upon is  
6 considered pertinent to applicant's disclosure. The cited prior art discloses varying designs for protective covers and seals for bearings having magnetic encoder sensing systems thereon.

**Conclusion**

Any inquiry concerning this communication or earlier  
12 communications from the examiner should be directed to Kenneth J. Whittington whose telephone number is (571) 272-2264. The examiner can normally be reached on Monday-Friday, 7:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz can be  
18 reached on (571) 272-2180. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through 6 Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kenneth J. Whittington  
Examiner  
Art Unit 2862

12 kjk